

1

2

3

4

5

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HERMAN ALFONSO MORALES,

Petitioner,

VS.

2 WARDEN ROBERT LAGRAND, et al.,

Respondents.

3:15-cv-00376-RCJ-VPC

ORDER

Petitioner has submitted a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). However, petitioner has failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

9 Thus, the present action will be dismissed without prejudice to the filing of a new petition in a
10 new action with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis* on
11 the proper form with both an inmate account statement for the past six months and a properly executed
12 financial certificate.

3 It does not appear from the papers presented that a dismissal without prejudice will materially
4 affect a later analysis of any timeliness issue with regard to a promptly filed new action.¹ Petitioner at

¹ This court may take judicial notice of the state-court dockets and it appears that petitioner pursued state postconviction relief until March 25, 2008 and then took no further action until September 22, 2014. See Eighth Judicial District Court Case No. 03C196919; Nevada Supreme Court Case No. S16333. (continued...)

1 all times remains responsible for properly exhausting his claims, for calculating the running of the
2 federal limitation period as applied to his case, and for properly commencing a timely-filed federal
3 habeas action.

4 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to the
5 filing of a new petition in a new action with a properly completed application form to proceed *in forma*
6 *pauperis.*

7 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as jurists of
8 reason would not find the court's dismissal of this improperly commenced action without prejudice to
9 be debatable or incorrect.

10 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each of an
11 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section 2254
12 habeas petition form, one copy of the instructions for each form, and a copy of the papers that he
13 submitted in this action.

14 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly and
15 close this case.

17 DATED: This 9th day of November, 2015.

015.
R. Jones
UNITED STATES DISTRICT JUDGE

27
28 ¹(...continued)
Court Case Nos. 67904, 67836, 66748.